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6.	Receipt from any person for acquiring shares (including share application money) issued by the company.	Amount aggregating to ten lakh rupees or more in a financial year, for a person.	A company issuing shares.
7.	Buy back of shares from any person (other than the shares bought in the open market).	Amount or value aggregating to ten lakh rupees or more in a financial year.	A company listed on a re-cognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013 (18 of 2013).
8.	Receipt from any person for sale of foreign currency including any credit of such currency to foreign exchange card or expense in such currency, through a debit or credit card or through issue of traveller's cheque or draft or any other instrument.	Amount, in a financial year in one or more account of a person, aggregating to,— (a) ten lakh rupees or more for a person having Permanent Account Number; or (b) Rs. 5,00,000 or more for a person not having Permanent Account Number.	Authorised person as referred to in section 2(c) of the Foreign Exchange Management Act, 1999 (42 of 1999).
9.	Purchase or sale or gift or joint development agreement of an immovable property by any person.	(a) Amount of forty-five lakh rupees or more; or (b) stamp duty value referred to in section 2(105) of the Act at forty-five lakh rupees or more.	Inspector-General appointed under section 3 of the Registration Act, 1908 (16 of 1908) or Registrar or Sub-Registrar appointed under section 6 of the said Act.
10.	Purchase of a stamp paper by any person.	(a) Amount of Rs. 2,00,000 or more in one transaction for a person having Permanent Account Number; or (b) Rs. 1,00,000 or more in one transaction for a person not having Permanent Account Number.	Stock Holding Corporation of India Limited.
11.	Receipt from any person against insurance premium	Amount, in a financial year in one or more account of a person, aggregating to,— (a) Rs. 5,00,000 or more for a person having Permanent Account Number; or (b) Rs. 2,50,000 or more for a person not having Permanent Account Number.	Insurer as defined in section 2(9) of the Insurance Act, 1938 (4 of 1938).
12.	Receipt of cash payment for sale, by any person, of goods or services of any nature (other than those specified at Sl. Nos. 1 to 11, if any.)	Amount exceeding Rs. 2,00,000.	Any person who is liable for audit under section 63.

(3) The reporting person mentioned in column 4 of the Table under sub-rule (2) (other than the persons at Sl. Nos. 9,10 and 12) shall, while aggregating the amounts for determining the threshold amount for reporting in respect of any person as specified in column 3 of the said Table,—

- take into account all the accounts of the same nature as specified in column 2 of the said Table maintained in respect of that person during the financial year;
- aggregate all the transactions of the same nature as specified in column 2 of the said Table recorded or maintained in respect of that person during the financial year;
- attribute the entire value of the transaction or the aggregated value of all the transactions to all the person, in a case where the account is maintained or transaction is recorded in the name of more than one person; and
- apply the threshold limit separately to deposits and withdrawals in respect of transaction specified in item (c) under column 2, against Sl. No. 1 of the said Table.

(4) (a) The return in Form No. 165 referred to in sub-rule (1) shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation), through online transmission of electronic data to a server designated for this purpose under the digital signature of the person specified in sub-rule (8) and in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems) and in case of a reporting person, being a Post Master General or a Registrar or an Inspector General referred to in sub-rule (2), the said Form may be furnished in a computer readable media, including a Compact Disc or Digital Video Disc (DVD), along with the verification in Form-V on paper.

(b) The Board may designate an officer as Information Statement Administrator, not below the rank of a Joint Director of Income-tax, for the purposes of day to day administration in relation to the furnishing of returns or statements.



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(5) The statement of financial transactions referred to in sub-rule (1) shall be furnished on or before the 31st May, immediately following the financial year in which the transaction is registered or recorded.

(6) For the purposes of pre-filing the return of income, a statement of financial transaction under section 508(1) containing information relating to capital gains on transfer of listed securities or units of Mutual Funds, dividend distributed and interest paid or credited mentioned in column 2 of the following Table shall be furnished by the persons mentioned in column 4 of the said Table in such Form, at such frequency, and in such manner, as may be specified by the Principal Director General of Income Tax (Systems) or the Director General of Income Tax (Systems), as the case may be, with the approval of the Board:

TABLE

Sl. No.	Nature of transaction	Value of transaction	Class of person (reporting person)	
1	2	3	4	
1.	Capital gains on transfer of listed securities or units of Mutual Funds.	All transactions	(a)	A recognised stock exchange; or
			(b)	a depository as defined in section 2(1)(e) of the Depositories Act, 1996 (22 of 1996); or
			(c)	a recognised Clearing Corporation; or
			(d)	a Registrar to an issue and share transfer agent registered under section 12(1) of the Securities and Exchange Board of India Act, 1992 (15 of 1992).
2.	Dividend distributed	All transactions	A company.	
3.	Interest paid or credited	All transactions	(a)	A banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 the said Act); or
			(b)	the Post Master General as referred to in section 2(j) of the Indian Post Office Act, 1898 (6 of 1898) (as it existed prior to its repeal) or the Regional Head as referred in the Post Office Rules, 2024 framed under the Post Office Act, 2023 (43 of 2023); or
			(c)	a non-banking financial company which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934), to hold or accept deposit from public.

(7) (a) Every reporting person mentioned in column 4 of the Table under sub-rule (2) and column 4 of the Table under sub-rule (6), shall communicate to the Principal Director General of Income-tax (Systems) the name, designation, address and telephone number of the Designated Director and the Principal Officer and obtain a registration number.

(b) It shall be the duty of every person specified in column 4 of the Table under sub-rule (2) and column 4 of the Table under sub-rule (6), its Designated Director, Principal Officer and employees to observe the procedure and the manner of maintaining information as specified by its regulator and ensure compliance with the obligations imposed under section 508 and rules 159, 160 and 161 and this rule.

(8) The statement of financial transaction referred to in sub-rules (1) and (6) shall be signed, verified and furnished by—

- a person who holds a valid power of attorney from such Designated Director as specified in sub-rule (7), where the reporting person is a non-resident; and
- the Designated Director in all other cases.

(9) For the purposes of this rule,—

- "Designated Director" means a person designated by the reporting person to ensure overall compliance with the obligations imposed under section 508 and rules 159, 160 and this rule and includes—
 - the Managing Director or a whole-time Director, as defined in the Companies Act, 2013 (18 of 2013), duly authorised by the Board of Directors if the reporting person is a company; or
 - the managing partner, if the reporting person is a partnership firm; or
 - the proprietor, if the reporting person is a proprietorship concern; or
 - the managing trustee, if the reporting person is a trust; or
 - a person or individual, as the case may be, who controls and manages the affairs of the reporting entity if the reporting person is, an unincorporated association or, a body of individuals or, any other person;
- "digital signature" means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities;
- "listed securities" means the securities which are listed on any recognised stock exchange in India;
- "Mutual Fund" means a Mutual Fund as referred to in Schedule VII(20) and (21) of the Act;
- "Principal Officer" means an officer designated by the reporting person referred to in the Table in sub-rule (2) and in the Table in sub-rule (6);
- "recognised clearing corporation" shall have the same meaning as assigned to it in regulation 2(1)(o) of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- "recognised stock exchange" shall have the same meaning as assigned to it in section 2(f) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- "Regulator" means a person or an authority or a Government, which is vested with the power to license, authorise, register, regulate or supervise the activity of the reporting person referred to in the Table in sub-rule (2) and in the Table in sub-rule (6);
- "securities" shall have the same meaning as assigned to it in section 2(h) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).



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Definitions.

238. For the purposes of this rule and rules 239 and 240,—

(1) "financial account" means an account (other than an excluded account) maintained by a financial institution, and includes—

- (i) a depository account;
- (ii) a custodial account;
- (iii) in the case of an investment entity, any equity or debt interest in the financial institution.

Explanation.—For the purposes of this sub-clause "financial account" shall not include any equity interest or debt interest in an entity that is an investment entity solely because it,—

- (a) renders investment advice to, and acts on behalf of; or
- (b) manages portfolios for, and acts on behalf of,

a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution that is not a non-participating financial institution other than such entity;

- (iv) in the case of a financial institution not described in sub-clause (iii), any equity or debt interest in the financial institution, if the class of interests was established with a purpose of avoiding reporting in accordance with rule 239 and, in case of a U.S. reportable account, if the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. source withholdable payments; and
- (v) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an excluded account.

Explanation.—For the purposes of this clause,—

(a) "depository account" includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business and also an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon but for an account other than a U.S. reportable account,—

- (A) the provisions of this clause shall apply with the effect that the phrase "financial institution in the ordinary course of a banking or similar business" shall be substituted by the phrase "depository institution";
- (B) a depository account shall also include, —
 - (i) an account or notional account that represents all specified electronic money products held for the benefit of a customer; and
 - (ii) an account that holds one or more central bank digital currencies for the benefit of a customer.

Explanation.— For the purposes of clause (a) of the *Explanation* to rule 238(1), "central bank digital currencies" shall have the same meaning as assigned in rule 241;

- (b) "custodial account" means an account (other than an insurance contract or annuity contract) for the benefit of another person that holds one or more financial assets;
- (c) "equity interest" in a financial institution, being—
 - (i) a partnership firm, means either a capital or profits interest in the partnership firm;
 - (ii) a trust, means any interest held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust;

Explanation.—A person will be treated as a beneficiary of a trust if he has the right to receive directly or indirectly a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

- (d) "insurance contract" means a contract (other than an annuity contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk;
- (e) "annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals;
- (f) "cash value insurance contract" means an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value and in case of a U.S. reportable account such value is greater than an amount equivalent to fifty thousand U.S. dollars.

Explanation.—For the purposes of this clause, a single premium life insurance contract which does not permit an amount to be paid on surrender or termination of the contract and which does not allow amounts to be borrowed under or with regard to the contract, shall not constitute a cash value insurance contract;

- (g) "cash value" means the greater of—
 - (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan); and
 - (ii) the amount the policyholder can borrow under or with regard to the contract,

but does not include an amount payable under an insurance contract,—

- (A) solely by reason of the death of an individual insured under a life insurance contract including a refund of a previously paid premium provided such refund is a limited risk refund; or
- (B) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against; or
- (C) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an insurance contract (other than a life insurance contract or an annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract; or
- (D) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an insurance contract under which the only benefits payable are described in sub-clause (B); or
- (E) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium which will be payable under the contract;

(ga) for the purposes of clause (g) of *Explanation* to sub-rule (1), the provisions contained in sub-clause (A) and sub-clause (E) shall not apply in case of a U.S. reportable account;

(h) "excluded account" means,—



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- (i) a retirement account or pension account that satisfies the following requirements: —
 - (A) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
 - (B) the account is tax-favoured where contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross total income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;
 - (C) information reporting is required to the income-tax authorities with respect to the account;
 - (D) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
 - (E) either annual contributions are limited to an amount equivalent to fifty thousand U.S. dollars or less, or there is maximum lifetime contribution limit to the account of an amount equivalent to one million U.S. dollars or less, in each case applying the rules specified in rule 240 for account aggregation and currency translation.

Explanation.—A financial account that otherwise satisfies the requirements of item (E) will not fail to satisfy such requirements solely because such financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of sub-clause (i) or (ii) or from one or more retirement or pension funds that meets with the requirements of clause (E), (F) or (G) of *Explanation* to clause (5);
- (ii) an account that satisfies the following requirements:—
 - (A) the account is subject to regulation as a savings vehicle for purposes other than for retirement, or the account (other than U.S. reportable account) is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market;
 - (B) the account is tax-favoured where contributions to the account that will otherwise be subject to tax are deductible or excluded from the total income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;
 - (C) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
 - (D) annual contributions are limited to an amount equivalent to fifty thousand U.S. dollars or less, applying the rules specified in rule 240 for account aggregation and currency translation.

Explanation.—A financial account that otherwise satisfies the requirements of item (D) will not fail to satisfy such requirements solely because such financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of sub-clause (i) or (ii) or from one or more retirement or pension funds that meets with the requirements of clause (E), (F) or (G) of *Explanation* to clause (5) of this rule;
- (iii) an account established under the Senior Citizens Savings Scheme Rules, 2004 made under the Government Savings Banks Act, 1873 (5 of 1873);
- (iv) a life insurance contract with a coverage period that will end before the insured individual attains age of ninety years, provided that the contract satisfies the following requirements: —
 - (A) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age of ninety years, whichever is shorter;
 - (B) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
 - (C) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
 - (D) the contract is not held by a transferee for value;
- (v) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate;
- (vi) an account established in connection with any of the following:—
 - (A) a court order or judgment;
 - (B) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements: —
 - (a) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - (b) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - (c) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - (d) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and
 - (e) the account is not associated with a depository account referred to in sub-clause (vii);
 - (C) an obligation of a financial institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time;
 - (D) an obligation of a financial institution solely to facilitate the payment of taxes at a later time;
 - (E) a foundation or capital increase of a company provided that the account satisfies the following requirements: —
 - (i) the account is used exclusively to deposit capital that is to be used for the purpose of the foundation or capital increase of a company, as prescribed by law;
 - (ii) any amounts held in the account are blocked until the Reporting Financial Institution obtains an independent confirmation regarding the foundation or capital increase;
 - (iii) the account is closed or transformed into an account in the name of the company after the foundation or capital increase;



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- (iv) any repayments resulting from a failed foundation or capital increase, net of service provider and similar fees, are made solely to the persons who contributed the amounts;
 - (v) the account has not been established more than 12 months ago; and
 - (vi) the account is not a U.S. reportable account;
 - (vii) in the case of an account other than a U.S. reportable account, a depository account that satisfies the following requirements:—
 - (A) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
 - (B) beginning on or before the 31st December, 2015, the financial institution implements its policies and procedures either to prevent a customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars, or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within sixty days, in each case applying the rules specified in rule 240 for account aggregation and currency translation and for this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns;
 - (viii) a depository account, other than U.S. reportable account, which represents all specified electronic money products held for the benefit of a customer, if the rolling average 90 day end-of-day aggregate account balance or value during any period of 90 consecutive days did not exceed USD 10,000 at any day during the calendar year or other appropriate reporting period;
- (2) "financial asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), insurance contract or annuity contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract, or annuity contract but "financial asset" shall not include a non-debt and direct interest in an immovable property and for an account other than a U.S. reportable account, "financial asset" shall also include any interest (including a futures or forward contract or option) in a relevant crypto-asset;
- (3) "financial institution" means a custodial institution, a depository institution, an investment entity, or a specified insurance company.
- Explanation.*—For the purposes of this clause,—
- (a) "custodial institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others and where its income attributable to the holding of financial assets and related financial services equals or exceeds twenty per cent of its gross income during the three financial years preceding the year in which determination is made or the period during which the entity has been in existence, whichever is less;
 - (b) "depository institution" means any entity that accepts deposits in the ordinary course of a banking or similar business but for an account other than a U.S. reportable account, "depository institution" shall also include an entity that holds specified electronic money products or central bank digital currencies for the benefit of customers;
 - (c) "investment entity" means any entity,—
 - (A) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer: —
 - (i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading; or
 - (ii) individual and collective portfolio management; or
 - (iii) otherwise investing, administering, or managing financial assets or money on behalf of other persons but for an account other than U.S. reportable account, the provisions of this item,—
 - (a) shall apply with the effect that the phrase "financial assets" shall be substituted by the phrase "financial assets or relevant crypto-assets";
 - (b) shall not include the provision of services effectuating exchange transactions for or on behalf of customers.
 - (B) *Explanation.* —For the purposes of item (iii), the term "exchange transaction" shall have the same meaning as assigned in rule 241; the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an investment entity mentioned in sub-clause (A) of this clause.
- Explanation 1.*—An entity is treated as primarily conducting as a business one or more of the activities described in sub-clause (A) of this clause, or an entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets for purposes of sub-clause (B) of this clause, if the entity's gross income attributable to the relevant activities equals or exceeds fifty per cent of the gross income of the entity during the shorter of the three-year period ending on 31st March of the year preceding the year in which the determination is made or the period during which the entity has been in existence.
- Explanation 2.*—The term "investment entity" shall not include an entity that is an active non-financial entity merely because it meets any of the criteria provided in sub-clause (iv), (v), (vi) or (vii) of clause (A) of *Explanation* to clause (6) of this rule but for an account other than a U.S. reportable account, the provisions of sub-clause (B) and *Explanation 1* shall apply with the effect that the phrase "financial assets" shall be substituted by the phrase "financial assets or relevant crypto-assets";
- (d) "specified insurance company" means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract;
- (4) "non-participating financial institution" means a financial institution defined in clause (r) of Article 1 of the agreement between the Government of the Republic of India and the Government of the United States of America to improve international tax compliance and to implement Foreign Account Tax Compliance Act of the United States of America (hereinafter referred to as the FATCA agreement), but does not include, —
- (a) an Indian financial institution; or
 - (b) other jurisdiction, being a jurisdiction that has in effect an agreement with the United States of America to facilitate the implementation of Foreign Account Tax Compliance Act (hereinafter referred to as other partner jurisdiction), financial institution, other than a financial institution treated as a non-participating financial institution pursuant to sub-paragraph (b) of paragraph 2 of Article 5 of the FATCA agreement or the corresponding provision in an agreement between the United States of America and other partner jurisdiction;
- (5) "non-reporting financial institution" means any financial institution that is,—
- (a) a Governmental entity, International Organisation or Central Bank, other than—
 - (i) with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution, or depository institution; or
 - (ii) with respect to the activity of maintaining central bank digital currencies for account holders which are not financial institutions, governmental entities, international organisations or central banks but the provisions of this item shall apply in respect of an account other than a U.S. reportable account;



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- (b) a Treaty Qualified Retirement Fund; a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental entity, International Organization or Central Bank;
- (c) a non-public fund of the armed forces, Employees' State Insurance Fund, a gratuity fund or a provident fund;
- (d) an entity that is an Indian financial institution only because it is an investment entity, provided that each direct holder of an equity interest in the entity is a financial institution referred to in sub-clauses (a) to (c), and each direct holder of a debt interest in such entity is either a depository institution (with respect to a loan made to such entity) or a financial institution referred to in sub-clauses (a) to (c);
- (e) a qualified credit card issuer;
- (f) an investment entity established in India that is a financial institution only because it,—
 - (I) renders investment advice to, and acts on behalf of; or
 - (II) manages portfolios for, and acts on behalf of; or
 - (III) executes trades on behalf of,a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution;
- (g) an exempt collective investment vehicle;
- (h) a trust established under any law for the time being in force to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under rule 239 with respect to all reportable accounts of the trust;
- (i) a financial institution with a local client base, in case of any U.S. reportable account;
- (j) a local bank, in case of any U.S. reportable account;
- (k) a financial institution with only low value accounts, in case of any U.S. reportable account;
- (l) sponsored investment entity and controlled foreign corporation, in case of any U.S. reportable account; or
- (m) sponsored closely held investment vehicle, in case of any U.S. reportable account;
- (n) a qualified non-profit entity in respect of an account other than a U.S. reportable account.

Explanation.—For the purpose of this clause,—

- (A) "Governmental entity" means the Government of a country or territory, any political sub-division of a country or territory (including a State, province, county, or municipality), or any wholly owned agency or instrumentality or controlled entity of a country or territory or of any one or more of the foregoing (where each is also a "Governmental entity") and includes the integral parts, controlled entities, and political sub-divisions of such country or territory.

Explanation.—For the purpose of clause (A), —

- (i) Subject to provisions of clauses (iii) and (iv), an "integral part" of a country or territory means any person, organisation, agency, bureau, fund, instrumentality, or other body, by whatever name called, that constitutes a governing authority of a country or territory and the net earnings of the governing authority must be credited to its own account or to other accounts of the country or territory, with no portion inuring to the benefit of any private person but integral part does not include any individual, who is a sovereign, official, or administrator acting in a private or personal capacity;
 - (ii) Subject to the provisions of clauses (iii) and (iv), a controlled entity means an entity that is separate in form from the country or territory or that otherwise constitutes a separate juridical entity; so, however, that,—
 - (a) the entity is wholly owned and controlled by one or more Governmental entities directly or through one or more controlled entities;
 - (b) the entity's net earnings are credited to its own account or to the accounts of one or more Governmental entities, with no portion of its income inuring to the benefit of any private person; and
 - (c) the entity's assets vest in one or more Governmental entities upon dissolution;
 - (iii) the income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a Governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of a Department of Government;
 - (iv) income is considered to inure to the benefit of private persons if the income is derived from Governmental entity engaged in a commercial business, such as a commercial banking business, which provides financial services to private persons;
- (B) "International Organisation" means any international organization or wholly owned agency or instrumentality thereof including any inter-Governmental organisation,—
 - (a) that is comprised primarily of Governments;
 - (b) that has in effect a headquarters or substantially similar agreement with India; and
 - (c) the income of which does not inure to the benefit of private persons;
 - (C) "Central Bank" means a bank that is by law or Government sanction the principal authority, other than the Government of the country or territory itself, issuing instruments intended to circulate as currency including an instrumentality that is separate from the Government of the country or territory, whether or not owned in whole or in part by that country or territory;
 - (D) "Treaty Qualified Retirement Fund" means a fund established in India, provided that the fund is entitled to benefits under an agreement between India and the United States of America on income that it derives from sources within the United States of America (or would be entitled to such benefits if it derived any such income) as a resident of India that satisfies any applicable limitation on benefits requirement, and is operated principally to administer or provide pension or retirement benefits;
 - (E) "Broad Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries who are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered but the fund,—
 - (i) does not have any beneficiary with a right to more than five per cent of the fund's assets;
 - (ii) is subject to Government regulation and provides information reporting to the income-tax authorities; and
 - (iii) satisfies at least one of the following requirements:—
 - (a) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - (b) the fund receives at least fifty per cent of its total contributions other than transfer of assets from other plans referred to in clauses (D) to (G) or from retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (I) from the sponsoring employers;
 - (c) distributions or withdrawals from the fund are allowed only in the event of retirement, disability or death except rollover distributions to other retirement funds referred to in clauses (E) to (G), or retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (I), or penalties which apply to distributions or withdrawals made before such events; or



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- (d) contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually, applying the procedures set forth in rule 240 for account aggregation and currency translation;
- (F) "Narrow Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries who are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered; so, however, that,—
- (i) the fund has less than fifty participants;
 - (ii) the fund is sponsored by one or more employers who are not investment entities or passive non-financial entities;
 - (iii) the employee and employer contributions to the fund other than transfer of assets from retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (I) are limited by reference to earned income and compensation of the employee, respectively;
 - (iv) participants who are not residents in India are not entitled to more than twenty per cent of the fund's assets; and
 - (v) the fund is subject to Government regulation and provides information reporting to the income-tax authorities;
- (G) "Pension Fund of a Governmental entity, International Organisation or Central Bank" means a fund established by a Governmental entity, International Organisation or Central Bank to provide retirement, disability or death benefits to beneficiaries or participants who are current or former employees (or persons nominated by such employees), or who are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services rendered to the Governmental entity, International Organisation or Central Bank;
- (H) "non-public fund of the armed forces" means a fund established in India as a regimental fund or non-public fund by the armed forces of the Union of India for the welfare of the current and former members of the armed forces and whose income is exempt from tax under Schedule VII(1) of the Act;
- (I) "Employees' State Insurance Fund" means the fund established as Employees' State Insurance Fund under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), to provide medical expenses of low-income factory workers in India;
- (J) "gratuity fund" means a fund established under the Payment of Gratuity Act, 1972 (39 of 1972), to provide for the payment of a gratuity to certain types of employees of an Indian employer specified in the Payment of Gratuity Act, 1972;
- (K) "provident fund" means a fund established under the Provident Funds Act, 1925 (19 of 1925) or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) to provide current and former employees of Indian employers retirement benefits in consideration for services rendered but that fund,—
- (i) does not have any beneficiary with a right to more than five per cent of the fund's assets;
 - (ii) is subject to Government regulation and provides annual information reporting about its beneficiaries to the income-tax authorities;
 - (iii) is generally exempt from tax on investment income due to its status as a provident fund; and
 - (iv) contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually, applying the procedures set forth in rule 240 for account aggregation and currency translation;
- (L) "qualified credit card issuer" means a financial institution satisfying the following requirements:—
- (i) it is a financial institution only because it is an issuer of credit cards and accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - (ii) beginning on or before the 1st July, 2014, the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within sixty days, in each case applying the rules set forth in rule 240 for account aggregation and currency translation.
- Explanation.*—For the purpose of this sub-clause, a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns;
- (M) "exempt collective investment vehicle" means an investment entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through persons other than,—
- (i) those referred to in sub-clauses (a) to (c) of clause (6); and
 - (ii) a non-participating financial institution.
- Explanation.*—An investment entity which is regulated as a collective investment vehicle does not fail to qualify under this clause as an exempt collective investment vehicle, only because it has issued physical shares in bearer form; so, however, that—
- (i) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after the 31st December, 2012;
 - (ii) the collective investment vehicle retires all such shares upon surrender;
 - (iii) the collective investment vehicle performs the due diligence procedures set forth in rule 240 and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
 - (iv) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to the 1st January, 2017;
- (N) "financial institution with a local client base" means a financial institution satisfying the following requirements:—
- (i) it has been granted a licence and is regulated as a financial institution under any law for the time being in force;
 - (ii) the financial institution does not have a fixed place of business outside India.
- Explanation.*—For the purposes of this sub-clause, a fixed place of business does not include a location that is not advertised to the public and from which the financial institution performs only administrative support functions; and
- (iii) the financial institution does not solicit customers or account holders outside India.
- Explanation.*—For the purpose of this sub-clause, a financial institution shall not be considered to have solicited customers or account holders outside India merely because the financial institution,—
- (a) operates a website, provided that the website does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes; or
 - (b) advertises in print media or on a radio or television station which is distributed or aired primarily within India but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes;



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- (iv) the financial institution is required under any law for the time being in force to identify resident account holders for purposes of either information reporting or withholding of tax with respect to financial accounts held by residents or for purposes of satisfying the due diligence requirements under the Prevention of Money-laundering Act, 2002 (15 of 2003);
 - (v) at least ninety eight per cent of the financial accounts by value maintained by the financial institution are held by residents;
 - (vi) beginning on or before the 30th June, 2014, the policies and procedures of the financial institution are consistent with those set forth in rule 240, to prevent the financial institution from providing a financial account to any non-participating financial institution and to monitor whether the financial institution opens or maintains a financial account for any reportable person who is not a resident of India (including a non-resident who was a resident of India when the financial account was opened but subsequently ceases to be a resident of India) or any passive non-financial entity with controlling persons who are reportable persons;
 - (vii) such policies and procedures explicitly provide that if any financial account held by a reportable person who is not a resident of India or by a passive non-financial entity with controlling persons who are reportable persons who are not resident of India is identified, the financial institution shall report such financial account as would be required if the financial institution was a reporting financial institution or close such financial account;
 - (viii) with respect to a pre-existing account held by an individual who is not a resident of India or by an entity, the financial institution shall review those pre-existing accounts in accordance with the procedures set forth in rule 240 applicable to pre-existing accounts to identify any reportable account or financial account held by a non-participating financial institution, and shall report such financial account as would be required if the financial institution were a reporting financial institution or close such financial account;
 - (ix) each related entity of the financial institution that is a financial institution must be incorporated or organised in India and, with the exception of any related entity that is a retirement fund referred to in clauses (D) to (G) of this *Explanation*, satisfies the requirements set forth in this clause; and
 - (x) the financial institution must not have policies or practices which discriminate against opening or maintaining financial accounts for individuals who are specified U.S. persons and residents of India;
- (O) "local bank" means a financial institution satisfying the following requirements: —
- (i) the financial institution operates only as (and is licensed and regulated under any law for the time being in force) a bank, or a credit union or similar cooperative credit organisation which is operated without profit;
 - (ii) the business of the financial institution consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organisation, members, provided that no member has a greater than five per cent interest in such credit union or cooperative credit organisation;
 - (iii) the financial institution satisfies the requirements set forth in sub-clauses (ii) and (iii) of clause (N), provided that, in addition to the limitations on the website referred to in sub-clause (iii) of clause (N), the website does not permit the opening of a financial account;
 - (iv) the financial institution does not have more than an amount equivalent to one hundred seventy-five million U.S. dollars in assets on its balance sheet, and the financial institution and any related entity, taken together, does not have more than an amount equivalent to five hundred million U.S. dollars in total assets on its consolidated or combined balance sheets; and
 - (v) any related entity must be incorporated or organised in India, and any related entity that is a financial institution, with the exception of any related entity that is a retirement fund referred to in clauses (D) to (G) or a financial institution with only low-value accounts referred to in clause (P), must satisfy the requirements set forth in this clause.
- Explanation.*—Regional Rural Banks constituted under the Regional Rural Bank Act, 1976 (21 of 1976), Urban Cooperative Banks constituted under respective State Cooperative Societies Acts or Multi State Cooperative Societies Act, State Cooperative Banks or District Central Cooperative Banks constituted under respective State Cooperative Societies Act and Local Area Banks licensed under the Banking Regulations Act, 1949 (10 of 1949) and regulated and registered as public limited companies under the Companies Act, 1956 (1 of 1956) or Companies Act, 2013 (18 of 2013), that satisfy the requirement under sub-clause (iv) shall be treated as local bank for the purpose of this clause;
- (P) "financial institution with only low-value accounts" means a financial institution satisfying the following requirements:—
- (i) the financial institution is not an investment entity;
 - (ii) no financial account maintained by the financial institution or any related entity has a balance or value in excess of an amount equivalent to fifty thousand U.S. dollars, applying the procedures prescribed in rule 240 for account aggregation and currency translation; and
 - (iii) the financial institution does not have more than fifty million U.S. dollars in assets on its balance sheet, and the financial institution and any related entities, taken together, do not have more than fifty million U.S. dollars in total assets on their consolidated or combined balance sheets;
- (Q) "sponsored investment entity and controlled foreign corporation" means a financial institution described in the following sub-clauses:—
- (i) a financial institution is a sponsored investment entity if—
 - (a) it is an investment entity established in India that is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust; and
 - (b) an entity has agreed with the financial institution to act as a sponsoring entity for the financial institution;
 - (ii) a financial institution is a sponsored controlled foreign corporation if—
 - (a) the financial institution is a controlled foreign corporation established under any law for the time being in force in India that is not a qualified intermediary (being an intermediary which is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust;
 - (b) the financial institution is wholly owned, directly or indirectly, by a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement that agrees to act, or requires an affiliate of the financial institution to act, as a sponsoring entity for the financial institution; and
 - (c) the financial institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all account holders and payees of the financial institution and to access all account and customer information maintained by the financial institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the account holder or payee, and that complies with the following requirements: —
 - (I) the sponsoring entity is authorised to act on behalf of the financial institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfil applicable registration requirements of the United States of America;
 - (II) the sponsoring entity has registered as a sponsoring entity with the United States of America;



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- (III) if the sponsoring entity identifies any U.S. reportable account with respect to the financial institution, the sponsoring entity registers the financial institution pursuant to applicable registration requirements of the United States of America on or before the 31st December, 2015 or the date that is ninety days after such U.S. reportable account is first identified, whichever is later;
- (IV) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution;
- (V) the sponsoring entity identifies the financial institution and includes the identifying number of the financial institution (obtained by following applicable registration requirements of the United States of America) in all its reporting completed on the financial institution's behalf; and
- (VI) the sponsoring entity has not had its status as a sponsor revoked;
- (R) "sponsored, closely held investment vehicle" means a financial institution satisfying the following requirements:—
- (i) it is a financial institution only because it is an investment entity and is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust;
- (ii) the sponsoring entity is a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement, reporting financial institution, or participating foreign financial institution defined in Annex II of the FATCA agreement, is authorised to act on behalf of the financial institution (such as a professional manager, trustee, or managing partner), and agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements which the financial institution would have been required to perform if it were a reporting financial institution;
- (iii) the financial institution does not act as an investment vehicle for unrelated parties;
- (iv) twenty or less than twenty individuals own all the debt interests and equity interests in the financial institution (other than debt interests owned by participating foreign financial institution defined in Annex II of the FATCA agreement and non-reporting financial institutions and equity interests owned by an entity if that entity owns hundred per cent of the equity interests in the financial institution and is itself a sponsored financial institution described in this clause); and
- (v) the sponsoring entity complies with the following requirements:—
- (a) it has been registered as a sponsoring entity in terms of the Foreign Account Tax Compliance Act of the United States of America;
- (b) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution and retains documentation collected with respect to the financial institution for a period of six years;
- (c) the sponsoring entity identifies the financial institution in all its reporting completed on the financial institution's behalf; and
- (d) the sponsoring entity has not had its status as a sponsor revoked;
- (S) "Qualified Non-Profit Entity" means an entity resident in India that has obtained confirmation by the Income-tax Department or other governmental authority of India that such entity meets all of the following conditions:—
- (i) it is established and operated in India exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in India and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
- (ii) it is exempt from income-tax in India;
- (iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- (iv) the applicable laws of India or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or a non-charitable entity other than pursuant to the conduct of the entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and
- (v) the applicable laws of India or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets be distributed to a Governmental entity or other entity that meets the conditions set out in (i) to (v), or escheat to the Government of India or any political sub-division thereof;
- (6) "reportable account" means a financial account which has been identified, pursuant to the due diligence procedures provided in rule 240, as held by,—
- (a) a reportable person; or
- (b) an entity, not based in United States of America, with one or more controlling persons that is a specified U.S. person; or
- (c) a passive non-financial entity with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of this rule.
- Explanation.*—For the purpose of this clause,—
- (A) "active non-financial entity" means any non-financial entity which fulfils any of the following criteria:—
- (i) less than fifty per cent of the entity's gross income for the preceding financial year is passive income and less than fifty per cent of the assets held by the entity during the preceding financial year are assets that produce or are held for the production of passive income; or
- (ii) the stock of the entity is regularly traded on an established securities market or the non-financial entity is a related entity of an entity, the stock of which is regularly traded on an established securities market.
- Explanation.*—For the purpose of this sub-clause, an established securities market means an exchange that is recognised and supervised by a Governmental authority in which the securities market is located and that has a meaningful annual value of shares traded on the exchange;
- (iii) the entity is a Governmental entity, an International Organization, a Central Bank, or an entity wholly owned by one or more of these entities; or
- (iv) substantially all of the activities of the entity consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution but an entity shall not qualify for this status if it functions as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes; or
- (v) the entity is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that the entity shall not qualify for this exception after the date that is twenty four months after the date of the initial organisation of the entity; or
- (vi) the entity was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with intent to continue or recommence operations in a business other than that of a financial institution; or



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- (vii) the entity primarily engages in financing and hedging transactions with, or for, related entities which are not financial institutions, and does not provide financing or hedging services to any entity which is not a related entity, provided that the group of any such related entities is primarily engaged in a business other than that of a financial institution; or
- (viii) the entity fulfils all of the following requirements: —
 - (a) it is established and operated in India exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in India and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - (b) it is exempt from income-tax in India;
 - (c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - (d) the applicable laws of the entity's country or territory of residence or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and
 - (e) the applicable laws of the entity's country or territory of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets must be distributed to a Governmental entity or other non-profit organization, or escheat to the Government of the entity's country or territory of residence or any political sub-division thereof.

Explanation.—For the purpose of this sub-clause, the following shall be treated as fulfilling the criteria provided in the said sub-clause:—

- (I) an Investor Protection Fund referred to in Schedule III(27) of the Act; and
- (II) an Investor Protection Fund referred to in Schedule III(28) of the Act;

- (B) "controlling person" means the natural person who exercises control over an entity and includes a beneficial owner as determined under sub-rule (3) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005 under the Prevention of Money-Laundering Act, 2002 (15 of 2003).

Explanation 1.—In determining the beneficial owner, the procedure specified in the following circular as amended from time to time shall be applied:—

- (i) DBOD.AML.BC. No.71/14.01.001/2012-13, issued on the 18th January, 2013 by the Reserve Bank of India; or
- (ii) CIR/MIRSD/2/2013, issued on the 24th January, 2013 by the Securities and Exchange Board of India; or
- (iii) IRDA/SDD/GDL/CIR/019/02/2013, issued on the 4th February, 2013 by the Insurance Regulatory and Development Authority.

Explanation 2.—In the case of a trust, the controlling person means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, the said expression means the person in equivalent or similar position;

- (C) "non-financial entity" means any entity that is not a financial institution;

- (D) "passive non-financial entity" means,—

- (i) any non-financial entity which is not an active non-financial entity; or
- (ii) an investment entity described in sub-clause (B) of clause (c) of the *Explanation* to clause (3), which is not located in any of the jurisdictions specified by the Central Board of Direct Taxes in this behalf; or
- (iii) not a withholding foreign partnership or a withholding foreign trust;

- (E) an entity is a "related entity" of another entity if either entity controls the other entity, or the two entities are under common control.

Explanation.—For the purpose of this clause control includes direct or indirect ownership of more than fifty per cent of the votes and value in an entity;

- (F) Subject to the provisions of clause (G), "passive income" includes income by way of,—

- (i) dividends;
- (ii) interest;
- (iii) income equivalent to interest;
- (iv) rents and royalties (other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the non-financial entity);
- (v) annuities;
- (vi) the excess of gains over losses from the sale or exchange of financial assets;
- (vii) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any financial assets;
- (viii) the excess of foreign currency gains over foreign currency losses;
- (ix) net income from swaps; or
- (x) amounts received under cash value insurance contracts;

- (G) Passive income will not include, in the case of a non-financial entity that regularly acts as a dealer in financial assets, any income from any transaction entered into in the ordinary course of such dealer's business as such a dealer.

- (7) "relevant crypto-asset" shall have the same meaning as assigned in rule 241;

- (8) "reporting financial institution" means, —

- (a) a financial institution (other than a non-reporting financial institution) which is resident in India, but excludes any branch of such institution, that is located outside India; and
- (b) any branch, of a financial institution (other than a non-reporting financial institution) which is not resident in India, if that branch is located in India;

- (9) "reportable person" means, —

- (a) one or more specified U.S. persons; or
- (b) one or more persons other than, —
 - (i) an entity the stock of which is regularly traded on one or more established securities markets;
 - (ii) any entity that is a related entity of an entity mentioned in item (i);
 - (iii) a Governmental entity;
 - (iv) an international organisation;
 - (v) a Central bank; or



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(vi) a financial institution,

that is a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory or an estate of a decedent who was a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory;

(10) "Specified Electronic Money Product" means any product that satisfies following criteria: —

- (a) it is a digital representation of a single fiat currency;
- (b) it is issued on receipt of funds for the purpose of making payment transactions;
- (c) it is represented by a claim on the issuer denominated in the same fiat currency;
- (d) it is accepted in payment by a natural or legal person other than the issuer; and
- (e) it is, by virtue of regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same fiat currency upon request of the holder of the product.

Explanation.—For the purposes of this clause, —

- (i) "Specified Electronic Money Product" does not include a product created for the sole purpose of facilitating the transfer of funds from a customer to another person pursuant to instructions of the customer;
 - (ii) A product is not created for the sole purpose of facilitating the transfer of funds if, in the ordinary course of business of the transferring Entity, either the funds connected with such product are held longer than 60 days after receipt of instructions to facilitate the transfer, or, if no instructions are received, the funds connected with such product are held longer than 60 days after receipt of the funds;
 - (iii) "fiat currency" shall have the same meaning as assigned in rule 241.
- (11) "specified U.S. person" means a U.S. person, other than the persons referred to in sub-clauses (i) to (xiii) of clause (ff) of Article 1 of the FATCA agreement;
- (12) "U.S. person" means, —
- (a) an individual, being a citizen or resident of the United States of America;
 - (b) a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof;
 - (c) a trust if, —
 - (i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and
 - (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust; or
 - (d) an estate of a decedent who was a citizen or resident of the United States of America;
- (13) "U.S. reportable account" means a financial account maintained by a reporting financial institution and, pursuant to the due diligence procedures provided in rule 240, is identified to be held by one or more specified U.S. persons or by an entity not based in the United States of America with one or more controlling persons which is a specified U.S. Person;
- (14) "U.S. source withholdable payment" means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States of America but a U.S. source withholdable payment shall not include any payment that is not treated as a withholdable payment in relevant Treasury Regulations of the United States of America;
- (15) "withholding foreign partnership" means a foreign partnership that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners;
- (16) "withholding foreign trust" means a foreign trust that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners.

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Information to be maintained and reported.

239. (1) The following information shall be maintained and reported by a reporting financial institution in respect of each reportable account: —

- (a) the name, address, taxpayer identification number (assigned to the account holder by the country or territory of his residence for tax purposes) and date and place of birth (in the case of an individual) of each reportable person, that is an account holder of the account but that in the case of an account other than a U.S. reportable account, a reporting financial institution shall also, —
 - I. maintain and report whether the account holder has provided a valid self-certification;
 - II. report whether the account is a joint account, including the number of joint account holders;
- (b) in the case of any entity which is an account holder and which, after application of due diligence procedures as provided in rule 240, is identified as having one or more controlling persons that is a reportable person, -
 - (i) the name and address of the entity, taxpayer identification number assigned to the entity by the country or territory of its residence; and
 - (ii) the name, address, date and place of birth of each such controlling person and taxpayer identification number assigned to such controlling person by the country or territory of his residence;but that in the case of an account other than a U.S. reportable account, a reporting financial institution shall also, —
 - I. maintain and report the role(s) by virtue of which each reportable person is a controlling person of the entity and whether a valid self-certification has been provided for each reportable person;
 - II. report whether the account is a joint account, including the number of joint account holders;
- (c) the account number (or functional equivalent in the absence of an account number), but that in the case of an account other than a U.S. reportable account, a reporting financial institution shall also maintain and report the type of account and whether the account is a pre-existing account or a new account;
- (d) the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of relevant calendar year or, if the account was closed during such year, immediately before closure;
- (e) in the case of any custodial account, —
 - (i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year; and
 - (ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to or with respect to the account during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;
- (f) in the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year;
- (g) in the case of any account other than that referred to in clause (e) or (f), the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year with respect to which the reporting financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the relevant calendar year;
- (h) in the case of any account held by a non-participating financial institution, for calendar years 2015 and 2016, the name of each non-participating financial institution to which payments have been made and the aggregate amount of such payments; but that the information to be reported, —
 - (i) with respect to calendar year 2014, is the information referred to in clauses (a), (b), (c) and (d), with regard to U.S. reportable accounts;
 - (ii) with respect to calendar year 2015, is the information referred to in clauses (a), (b), (c), (d), (f), (g), (h) and sub-clause (i) of clause (e), with regard to U.S. reportable accounts;
 - (iii) with respect to calendar year 2016, is the information referred to in clauses (a) to (h), with regard to all reportable accounts;
 - (iv) with respect to calendar year 2017 and subsequent years, is the information referred to in clauses (a) to (g), with regard to all reportable accounts;
 - (v) with respect to each U.S. reportable account which is maintained by a reporting financial institution as on the 30th June, 2014, the taxpayer identification number of any relevant person is not required to be reported if such taxpayer identification number is not in the records of the reporting financial institution.
- (i) in the case of an account other than U.S. reportable account, where any equity interest is held in an investment entity that is a legal arrangement, the roles by virtue of which the reportable person is an equity interest holder;

(2) For the purposes of sub-rule (1), —

- (a) "account holder" means the person listed or identified as the holder of a financial account by the financial institution that maintains the account:
Provided that a person, other than a financial institution, holding a financial account for the benefit or on account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account, and such other person is treated as holding the account;
Provided further that in the case of a cash value insurance contract or an annuity contract, the account holder is any person entitled to receive a payment upon the maturity of the contract or any person entitled to access the cash value or change the beneficiary of the contract and if no person can access the cash value or change the beneficiary, the account holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract;
- (b) "taxpayer identification number" means a number assigned to a person in the country or territory in which he is resident for tax purposes and includes a functional equivalent in case no such number is assigned.

(3) Where the person is a resident of more than one country or territory outside India under the tax laws of such country or territory, the reporting financial institution shall maintain the taxpayer identification number in respect of each such country or territory.

(4) Irrespective of sub-rule (1), with respect to each reportable account which is a pre-existing account, the taxpayer identification number or date of birth is not required to be reported if such taxpayer identification number or date of birth is not in the records of the reporting financial institution but the reporting financial institution shall obtain the taxpayer identification number and date of birth with respect to, —

- (a) pre-existing accounts by the 31st December, 2016 and shall report it with respect to calendar year 2017 and subsequent years; and
 - (b) an account other than a U.S. reportable account, whenever it is required to update the information relating to the pre-existing account pursuant to the rules made under the Prevention of Money-Laundering Act, 2002.
- (5) Irrespective of sub-rule (1) and sub-rule (4), the taxpayer identification number is not required to be reported if, —
- (i) a taxpayer identification number (including its functional equivalent) is not issued by the relevant country or territory outside India in which the person is resident for tax purposes; or



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- (ii) the domestic law of the relevant country or territory outside India does not require the collection of the taxpayer identification number issued by such country or territory.
- (6) Irrespective of sub-rule (1), the place of birth is not required to be reported unless it is available in the electronically searchable data maintained by the reporting financial institution.
- (7) Irrespective of sub-rule (1)(e)(ii) and unless the reporting financial institution elects otherwise with respect to any clearly identified group of accounts, the gross proceeds from the sale or redemption of a financial asset are not required to be reported to the extent such gross proceeds from the sale or redemption of such financial asset are reported by the reporting financial institution under the Crypto-Asset Reporting Framework but the provisions of this sub-rule shall apply in respect of an account other than U.S. reportable account.
- (8) The statement of reportable account required to be furnished under section 508(1)(k) shall be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in rule 240, as a reportable account but where pursuant to such due diligence procedures no account is identified as a reportable account, a *nil* statement shall be furnished by the reporting financial institution.
- (9) The statement referred to in sub-rule (8) shall be furnished in Form No. 166 and in such manner, as may be specified by the Principal Director General of Income Tax (Systems) or the Director General of Income Tax (Systems), as the case may be, with the approval of the Board for every calendar year by the 31st day of May following that year.
- (10) (a) The statement referred to in sub-rule (8) shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose under the digital signature in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems).

Explanation. — For the purposes of this sub-rule, "digital signature" means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities.

(b) Principal Director General of Income Tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

(11) (a) Every reporting financial institution shall communicate to the Principal Director General of Income-tax (Systems) the name, designation and communication details of the Designated Director and the Principal Officer and obtain a registration number;

(b) The statement referred to in sub-rule (8) shall be signed, verified and furnished by the Designated Director of the reporting financial institution on the basis of information available with the institution:

Provided that where the reporting financial institution is a non-resident, the statement may be signed, verified and furnished by a person who holds a valid power of attorney from such Designated Director;

(c) It shall be the duty of every reporting financial institution, its Designated Director, Principal Officer and employees to observe the procedure and the manner of maintaining information as specified by its regulator.

Explanation.—For the purposes of this sub-rule,—

- (a) "Designated Director" means a person designated by the reporting financial institution to ensure overall compliance with the obligations imposed under section 508 and the rules made thereunder and includes—
- (i) the Managing Director or a whole-time Director, as defined in the Companies Act, 2013 (18 of 2013), duly authorised by the Board of Directors if the reporting financial institution is a company;
 - (ii) the managing partner if the reporting financial institution is a partnership firm;
 - (iii) the proprietor if the reporting financial institution is a proprietorship concern;
 - (iv) the managing trustee if the reporting financial institution is a trust;
 - (v) a person or individual, as the case may be, who controls and manages the affairs of the reporting financial institution if the reporting financial institution is an association of persons or a body of individuals, or any other person;
- (b) "Principal Officer" means an officer designated by the reporting financial institution;
- (c) "regulator" means a person or an authority or a Government which is vested with the power to licence, authorise, register, regulate or supervise the activities of the reporting financial institution.

(12)(a) The regulator referred to in sub-rule (11)(c) shall issue instructions or guidelines to, —

- (i) incorporate the requirements of reporting and due diligence procedure specified under rules 238 to 240;
 - (ii) provide the procedure and manner of maintaining the information by the reporting financial institution; and
 - (iii) ensure the availability of the information referred to in sub-rule (1) with the reporting financial institution for meeting its reporting obligation, if such information is not maintained by it under any rule or regulation issued by the regulator.
- (b) Every reporting financial institution shall maintain information in respect of financial accounts in accordance with the procedure and manner as may be specified by its regulator from time to time so as to enable reporting of information prescribed under this rule and perform due diligence procedure specified under rule 240.

(13) Irrespective of sub-rule (1)(b) and sub-rule (1)(i) of this rule, with respect to each reportable Account other than a U.S. reportable account that is maintained by a reporting financial institution as of 31st December, 2025 and for reporting periods ending by the second calendar year following such date, information with respect to the role(s) by virtue of which each reportable person is a controlling person or equity interest holder of the entity is only required to be reported if such information is available in the electronically searchable data maintained by the reporting financial institution.



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Due diligence requirement.

240. (1) An account shall be treated as a reportable account beginning as on the date it is identified as such pursuant to the due diligence procedure specified in sub-rule (3) to sub-rule (8) and, unless otherwise provided, information with respect to a reportable account shall be reported annually in the calendar year following the calendar year to which the information relates.

(2) For the purpose of this rule,—

- (a) "documentary evidence" includes any of the following:—
 - (i) a certificate of residence issued by an authorised Government body, including a Government agency or a municipality, of the country or territory in which the payee claims to be a resident;
 - (ii) with respect to an individual, any valid identification issued by an authorized Government body, including a Government agency or a municipality, that includes the individual's name and is particularly used for identification purposes;
 - (iii) with respect to an entity, any official documentation issued by an authorized Government body, including a Government agency or a municipality, which includes the name of the entity and either the address of its principal office in the country or territory in which it claims to be a resident or the country or territory in which the entity was incorporated or organized;
 - (iv) any financial statement, third-party credit report, bankruptcy filing, or a report of the Government agency regulating the securities market;
- (b) "high value account" means a pre-existing individual account with a balance or value that,—
 - (i) in case of a U.S. reportable account, exceeds an amount equivalent to one million U.S. dollars as on the 30th June, 2014 or 31st December of any subsequent year; and
 - (ii) in case of other reportable account, exceeds an amount equivalent to one million U.S. dollars as on the 31st December, 2015 or 31st December of any subsequent year;
- (c) "lower value account" means a pre-existing individual account with a balance or value that,—
 - (i) in case of a U.S. reportable account, exceeds an amount equivalent to fifty thousand U.S. dollars but does not exceed an amount equivalent to one million U.S. dollars as on the 30th June, 2014; and
 - (ii) in case of other reportable account, does not exceed an amount equivalent to one million U.S. dollars as on the 31st December, 2015;
- (d) "new account" means a financial account maintained by a reporting financial institution opened on or after,
 - (i) in case of a U.S. reportable account, the 1st July, 2014; and
 - (ii) in case of other reportable account, the 31st January, 2016 or, if the account is treated as a financial account solely by virtue of the amendments to the Common Reporting Standard, on or after 1st January, 2026;
- (e) "new entity account" means a new account held by one or more entities;
- (f) "new individual account" means a new account held by one or more individuals;
- (g) "other reportable account" means a reportable account which is not a U.S. reportable account;
- (h) "pre-existing account" means a financial account maintained by a reporting financial institution as on,—
 - (I) in case of a U.S. reportable account, the 30th June, 2014; and
 - (II) in case of other reportable account, the 31st December, 2015 or, if the account is treated as a financial account solely by virtue of the amendments to the Common Reporting Standard, as of 31st December, 2025;
- (i) "pre-existing entity account" means a pre-existing account held by one or more entities;
- (j) "pre-existing individual account" means a pre-existing account held by one or more individuals;
- (k) where a balance or value threshold is to be determined at the end of a calendar year, the relevant balance or value shall be determined as on the last day of the reporting period which ends with or within that calendar year.

(3) The due diligence procedure for the purposes of identifying reportable accounts among pre-existing individual accounts shall be the following:—

- (a) a pre-existing individual account is not required to be reviewed, identified or reported, if,—
 - (i) in case of a U.S. reportable account,—
 - (A) the balance or value as on the 30th June, 2014, does not exceed an amount equivalent to fifty thousand U.S. dollars, subject to sub-clause (vi) of clause (c) of this sub-rule; or
 - (B) which is a cash value insurance contract or an annuity contract, the balance or value does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014, subject to sub-clause (vi) of clause (c) of this sub-rule; or
 - (C) which is a cash value insurance contract or an annuity contract, the reporting financial institution, under any other law for the time being in force in India or of the United States of America, is prevented from selling such contract to a person who is a resident of the United States of America;
 - (ii) in case of other reportable account, which is a cash value insurance contract or an annuity contract, the reporting financial institution, under any other law for the time being in force in India, is prevented from selling such contract to a person who is not a resident of India for tax purposes;
- (b) with respect to lower value accounts among pre-existing individual accounts the following procedures shall apply:—
 - (i) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the following indicia, and apply provisions contained in sub-clauses (ii) to (v):—
 - (A) identification of the account holder as a resident of any country or territory outside India for tax purposes or unambiguous indication of a place of birth in the United States of America; or
 - (B) current mailing or residence address (including a post office box) in any country or territory outside India; or
 - (C) one or more telephone numbers in a country or territory outside India and no telephone number in India; or
 - (D) in case of U.S. reportable account, any standing instructions to transfer funds to an account maintained in a country or territory outside India and in case of other reportable account, any standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a country or territory outside India; or
 - (E) currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India; or
 - (F) a "hold mail" instruction or "in-care-of" address in a country or territory outside India if the reporting financial institution does not have any other address on file for the account holder;
 - (ii) if none of the indicia listed in sub-clause (i) are discovered in the electronic search, then no further action is required until there is a change in circumstances which results in one or more indicia being associated with the account, or the account becomes a high value account;



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- (iii) if any of the indicia listed in items (A) to (E) of sub-clause (i) are discovered in the electronic search, or if there is a change in circumstances which results in one or more indicia being associated with the account, then the reporting financial institution shall treat the account holder as resident for tax purposes of each such country or territory for which an indicium is identified, unless it elects to apply sub-clause (v) and one of the exceptions in the said sub-clause applies with respect to that account;
 - (iv) if a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in items (A) to (E) of sub-clause (i) are identified for the account holder, the reporting financial institution shall apply the paper record search referred to in sub-clause (ii) of clause (c), or seek to obtain from the account holder a self-certification or documentary evidence to establish the residence or residences for tax purposes of such account holder but if the paper search fails to establish an indicium and the attempt to obtain the self-certification or documentary evidence is not successful, the reporting financial institution shall report the account as an undocumented account;
 - (v) irrespective of a finding of indicia under sub-clause (i), a reporting financial institution is not required to treat an account holder as a resident, for tax purposes,—
 - (A) of United States of America if, the account holder's information unambiguously indicates a place of birth in the United States of America and the reporting financial institution obtains, or has previously reviewed and maintains a record of,—
 - (I) a self-certification that the account holder is neither a citizen of the United States of America nor its resident for tax purposes;
 - (II) a passport or other Government issued identification evidencing the account holder's citizenship or nationality in a country other than the United States of America; and
 - (III) a copy of the account holder's certificate of loss of nationality of the United States of America or a reasonable explanation of—
 - (1) the reason, the account holder does not have such a certificate despite relinquishing citizenship of the United States of America; or
 - (2) the reason, the account holder did not obtain citizenship of the United States of America at birth;
 - (B) of any country or territory outside India if, the account holder's information contains a current mailing or residence address in any country or territory outside India, one or more telephone numbers in any country or territory outside India (and no telephone number in India) or standing instructions (with respect to financial accounts other than depository accounts) to transfer funds to an account maintained in any country or territory outside India, the reporting financial institution obtains, or has previously reviewed and maintains a record of,—
 - (I) a self-certification from the account holder of the country or territory or countries or territories of residence for tax purposes of such account holder that does not include any country or territory outside India; and
 - (II) documentary evidence establishing the account holder's non-reportable status;
 - (C) of any country or territory outside India if, the account holder's information contains a currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India, or one or more telephone numbers in any country or territory outside India (if an Indian telephone number in also associated with the account), the reporting financial institution obtains, or has previously reviewed and maintains a record of—
 - (I) a self-certification from the account holder of the country or territory or countries or territories of residence of such account holder that does not include any country or territory outside India; or
 - (II) documentary evidence establishing the account holder's non-reportable status;
- (c) with respect to high value accounts among pre-existing individual accounts the following enhanced review procedures shall apply:—
- (i) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the indicia described in sub-clause (i) of clause (b);
 - (ii) if the reporting financial institution's electronically searchable databases do not capture all of the information referred to in sub-clause (iii) of this clause, then the reporting financial institution shall also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the reporting financial institution during the last five years for any of the indicia provided in sub-clause (i) of clause (b),—
 - (A) the most recent documentary evidence collected with respect to the account;
 - (B) the most recent account opening contract or documentation;
 - (C) the most recent documentation obtained by the reporting financial institution pursuant to rules framed under the Prevention of Money-laundering Act, 2002 (15 of 2003) or any other law for the time being in force;
 - (D) any power of attorney or signature authority forms currently in effect; and
 - (E) in case of U.S. reportable account, any standing instructions to transfer funds currently in effect and in case of other reportable account any standing instructions (other than with respect to a depository account) to transfer funds currently in effect; but where the electronically searchable databases include fields for, and capture all the information referred to in sub-clause (iii) of this clause, then review of the customer master file and documents referred to above shall not be required;
 - (iii) a reporting financial institution is not required to perform the paper record search referred in sub-clause (ii) of this clause to the extent the reporting financial institution's electronically searchable information includes the following:—
 - (A) the account holder's residence status for tax purposes;
 - (B) the account holder's residence address and mailing address currently on file with the reporting financial institution;
 - (C) the account holder's telephone number or numbers currently on file, if any, with the reporting financial institution;
 - (D) in the case of financial accounts other than depository accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the reporting financial institution or another financial institution);
 - (E) whether there is a current "in-care-of" address or "hold mail" instruction for the account holder; and
 - (F) whether there is any power of attorney or signatory authority for the account;
 - (iv) in addition to the electronic and paper record searches provided in sub-clauses (i) to (iii) of this clause, the reporting financial institution shall treat as a reportable account any high value account assigned to a relationship manager (including any financial accounts aggregated with that high value account) if the relationship manager has actual knowledge that the account holder is a reportable person;
 - (v) after application of review procedures specified in sub-clauses (i) to (iv) if,—
 - (A) none of the indicia referred to in sub-clause (i) of clause (b) are discovered, and the account is not identified as held by a reportable person as per sub-clause (iv), then further action is not required until there is a change in circumstances which results in one or more indicia being associated with the account;



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- (B) any of the indicia referred to in items (A) to (E) of sub-clause (i) of clause (b) are discovered, or if there is a subsequent change in circumstances which results in one or more indicia being associated with the account, then the reporting financial institution shall treat the account as a reportable account with respect to each country or territory outside India for which an indicium is identified unless it elects to apply sub-clause (v) of clause (b) and one of the exceptions in the said sub-clause applies with respect to that account;
- (C) a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia referred to in items (A) to (E) of sub-clause (i) of clause (b) are identified for the account holder, the reporting financial institution shall obtain from such account holder a self-certification or documentary evidence to establish the residence or residences for tax purposes of the account holder but if the reporting financial institution cannot obtain such self-certification or documentary evidence, it shall report the account as an undocumented account;
- (vi) if a pre-existing individual account is not a high value account as on the 30th June, 2014 (for U.S. reportable account), or as the case may be, 31st December, 2015 (for other reportable account), but becomes a high value account as on the last day of year 2015 (for U.S. reportable account) or last day of any subsequent calendar year (for all reportable accounts), the reporting financial institution shall complete the enhanced review procedures specified in this clause with respect to such account within the calendar year following the year in which the account becomes a high value account and if based on such review the account is identified as a reportable account, the reporting financial institution shall report the required information about such account with respect to the year in which it is identified as a reportable account and subsequent years on an annual basis, unless the account holder ceases to be a reportable person;
- (vii) once a reporting financial institution applies the enhanced review procedures specified in this clause to a high value account, the reporting financial institution is not required to re-apply such procedures, other than an inquiry by the relationship manager provided in sub-clause (iv), to the same high value account in any subsequent year unless the account is undocumented where the reporting financial institution shall re-apply them annually until such account ceases to be undocumented;
- (viii) if there is a change of circumstances with respect to a high value account which results in one or more indicia referred to in sub-clause (i) of clause (b) being associated with the account, then the reporting financial institution must treat the account as a reportable account with respect to each such country or territory outside India for which an indicium is identified unless it elects to apply sub-clause (v) of clause (b) and one of the exceptions in the said sub-clause applies with respect to that account;
- (ix) a reporting financial institution shall implement procedures to ensure that a relationship manager identifies any change in circumstances of an account and where the relationship manager is informed that the account holder has a new mailing address in any country or territory outside India, the reporting financial institution is required to treat the new address as a change in circumstances and, if it elects to apply sub-clause (v) of clause (b), then it is required to obtain the appropriate documentation from the account holder;
- (d) review of pre-existing individual account,—
 - (i) in case of a U.S. reportable account which is high value account as on the 30th June, 2014, shall be completed by the 31st December, 2015 and if based on this review such account is identified as a U.S. reportable account after the 31st December, 2014 and on or before the 31st December, 2015, the reporting financial institution is not required to report information about such account with respect to calendar year 2014, but shall report information about the account on an annual basis thereafter;
 - (ii) in case of a U.S. reportable account which is low value account as on the 30th June, 2014, shall be completed by the 30th June, 2016 and in case of other reportable account which is high value account as on the 31st December, 2015, shall be completed by the 31st December, 2016;
 - (iii) in case of other reportable account that is low value account as on the 31st December, 2015, must be completed by the 30th June, 2017;
- (e) any pre-existing individual account which has been identified as a reportable account under this sub-rule shall be treated as a reportable account in all subsequent years, unless the account holder ceases to be a resident of any country or territory outside India as per tax laws of such jurisdiction.
- (4) The following procedures shall apply for purposes of identifying reportable accounts among new individual accounts:—
 - (a) unless the reporting financial institution elects otherwise, the following new individual accounts are not required to be reviewed, or reported as U.S. reportable accounts:—
 - (i) a depository account unless the account balance exceeds an amount equivalent to fifty thousand U.S. dollars at the end of any calendar year;
 - (ii) a cash value insurance contract unless the cash value exceeds an amount equivalent to fifty thousand U.S. dollars at the end of any calendar year;
 - (b) in case of a new individual account,—
 - (i) in respect of a U.S. reportable account, which does not fall under sub-clauses (i) and (ii) of clause (a), upon account opening or within ninety days after the end of the calendar year in which the account ceases to be covered under sub-clauses (i) and (ii) of clause (a); and
 - (ii) in respect of other reportable account, upon account opening,the reporting financial institution shall obtain a self-certification, which may be part of the account opening documentation, that allows the reporting financial institution to determine the account holder's residence or residences for tax purposes and confirms the reasonableness of such self-certification based on the information obtained by the reporting financial institution in connection with the opening of the account, including any documentation collected in accordance with Prevention of Money-laundering (Maintenance of Records) Rules, 2005 under the Prevention of Money-Laundering Act, 2002 (15 of 2003);
 - (c) where the self-certification obtained under clause (b) of this sub-rule establishes that the account holder is resident for tax purposes in a country or territory outside India, the reporting financial institution shall treat the account as a reportable account and the self-certification shall also include the account holder's taxpayer identification number with respect to such country or territory outside India, subject to rule 239(5), and date of birth;
 - (d) where a self-certification has been obtained under clause (b) of this sub-rule for a new individual account and if there is a change of circumstances with respect to such account which causes the reporting financial institution to know, or have reason to know, that the said self-certification is incorrect or unreliable, the reporting financial institution shall not rely on the said self-certification and shall obtain a valid self-certification that establishes the residence or residences for tax purposes of the account holder but if the reporting financial institution is unable to obtain a valid self-certification, the reporting financial institution shall treat the account as a reportable account with respect to each such country or territory outside India for which an indicium is identified.
- (5) The following procedures shall apply for purposes of identifying reportable accounts among pre-existing entity accounts:—
 - (a) unless the reporting financial institution elects otherwise, either with respect to all pre-existing entity accounts or, separately, with respect to any clearly identified group of such accounts, a pre-existing entity account with an aggregate account balance or value which does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), is not required to be reviewed, identified, or reported as a reportable account until the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as of the last day of any subsequent calendar year;



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- (b) a pre-existing entity account that has an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), and a pre-existing entity account that does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account) but the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as of the last day of any subsequent calendar year, shall be reviewed in accordance with the procedure provided in clause (d) of this sub-rule;
- (c) with respect to pre-existing entity accounts referred to in clause (b), only accounts which are held by,—
- (i) one or more entities which are reportable persons; or
 - (ii) passive non-financial entity with one or more controlling persons who are reportable persons, shall be treated as reportable accounts but the accounts held by non-participating financial institutions for which aggregate payments as provided in clause (h) of sub-rule (1) of rule 239 are reported shall be treated as reportable accounts;
- (d) for pre-existing entity accounts referred to in clause (b) with respect to which reporting is required, a reporting financial institution, to determine whether the account is held by one or more reportable persons, or by a passive non-financial entity with one or more controlling persons who are reportable persons, or by non-participating financial institutions, shall apply the following review procedures:—
- (i) to determine whether the entity is a reportable person, the reporting financial institution shall,—
 - (A) review information maintained for regulatory or customer relationship purposes including information collected in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003) to determine whether the information indicates that the account holder is a reportable person.
Explanation.—For the purpose of this sub-clause, information indicating that the account holder is a resident of any country or territory outside India as per tax laws of such country or territory includes a place of incorporation or organisation, or an address in a country or territory outside India;
 - (B) treat the account as a reportable account, if the information as per item (A) indicates that the account holder is a reportable person, unless it obtains a self-certification from the account holder, or reasonably determines based on information in its possession or that is publicly available, that the account holder is not a reportable person but if the information as per item (A) indicates that the account holder is an entity not based in the United States of America which is a financial institution, or the reporting financial institution verifies the account holder's Global Intermediary Identification Number, then the account shall not be treated as a U.S. reportable account;
 - (ii) treat the account holder as a non-participating financial institution if,—
 - (A) the account holder is an Indian financial institution or other partner jurisdiction financial institution and treated by the United States of America as a non-participating financial institution;
 - (B) the account holder, being a financial institution, is not an Indian financial institution or other partner jurisdiction financial institution, unless the reporting financial institution,—
 - (I) obtains a self-certification from the account holder that it is a financial institution referred to in sub-clauses (a) to (m) of clause (5) of rule 238; or
 - (II) in the case of participating foreign financial institution defined in Annex II of the FATCA agreement or a financial institution referred to in sub-clauses (e) to (m) of clause (5) of rule 238, verifies the account holder's Global Intermediary Identification Number;
 - (iii) the reporting financial institution shall determine whether the account holder is a passive non-financial entity with one or more controlling persons who are resident of any country or territory outside India as per tax laws of such country or territory and in making these determinations the reporting financial institution shall follow the following procedures:—
 - (A) for purposes of determining whether the account holder is a passive non-financial entity, the reporting financial institution shall obtain a self-certification from the account holder to establish its status, unless it has information in its possession or which is publicly available, based on which it can reasonably determine that the account holder is an active non-financial entity or a financial institution other than an investment entity referred to in sub-clause (B) of clause (c) of *Explanation* to clause (3) of rule 238;
 - (B) for purposes of determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003);
 - (C) for purposes of determining whether a controlling person of a pre-existing account of passive non-financial entity is a reportable person, a reporting financial institution may rely on,—
 - (I) information collected and maintained in accordance with rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003) in the case of pre-existing entity account held by one or more non-financial entity with an aggregate balance or value which does not exceed an amount equivalent to one million U.S. dollars; or
 - (II) a self-certification from the account holder or such controlling person of the passive non-financial entity with an account balance or value which exceeds an amount equivalent to one million U.S. dollars;
 - (D) if any controlling person of a passive non-financial entity is a resident of any country or territory outside India for tax purposes, the account shall be treated as a reportable account;
- (e) the following additional procedures shall be applicable to pre-existing entity accounts:—
- (i) review of pre-existing entity accounts with an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account) shall be completed by the 30th June, 2016 and review of pre-existing entity accounts with an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 31st December, 2015 (in case of other reportable account) shall be completed by the 31st December, 2016;
 - (ii) review of pre-existing entity accounts with an aggregate account balance or value which does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), but exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 31st December of a subsequent year, shall be completed within the calendar year following the year in which the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars;
 - (iii) if there is a change of circumstances with respect to a pre-existing entity account that causes the reporting financial institution to know, or have reason to know, that the self-certification or other documentation associated with the account is incorrect or unreliable, the reporting financial institution shall re-determine the status of the account in accordance with the procedures set forth in clause (d) of this sub-rule.
- (6) The following procedures shall apply for purposes of identifying reportable accounts and accounts held by non-participating financial institutions among new entity accounts:—
- (a) a reporting financial institution, to determine whether the new entity account is a reportable account, shall apply the following review procedures:



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- (i) determine whether the entity is a reportable person and for that the reporting financial institution shall,—
- (A) obtain a self-certification, which may be part of the account opening documentation, that allows the reporting financial institution to determine the account holder's residence or residences for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the reporting financial institution in connection with the opening of the account, including any documentation collected in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003) but if the entity certifies that it has no residence for tax purposes, the reporting financial institution may rely on the address of the principal office of the entity to determine the residence of the account holder;
- (B) treat the account as a reportable account, if the information as per item (A) indicates that the account holder is a reportable person, unless it reasonably determines based on information in its possession or which is publicly available, that the account holder is not a reportable person but if the information as per item (A) indicates that the account holder is an Indian financial institution, or partner jurisdiction financial institution, which is not a non-participating financial institution or a participating foreign financial institution or a non-reporting financial institution then the account shall not be treated as a U.S. reportable account;
- (ii) determine whether the account holder is a passive non-financial entity with one or more controlling persons who are reportable persons and in making these determinations the reporting financial institution shall follow the following procedures:—
- (A) for purposes of determining whether the account holder is a passive non-financial entity, the reporting financial institution shall rely on a self-certification from the account holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the account holder is not a passive non-financial entity;
- (B) for purposes of determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003) but in the case of an account other than a U.S. reportable account, if the reporting financial institution is not legally required to collect and maintain information in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003), it must apply substantially similar procedures for the purpose of determining the controlling persons;
- (C) for purposes of determining whether a controlling person of a passive non-financial entity is a reportable person, a reporting financial institution may rely on a self-certification from the account holder or such controlling person;
- (b) the reporting financial institution shall determine whether the account holder is a non-participating financial institution and in such case any payment to the account holder shall be reported as per clause (h) of sub-rule (1) of rule 239.
- (7) The following additional procedures shall apply in implementing the due diligence requirement specified in sub-rules (1) to (6):—
- (a) a reporting financial institution,—
- I. may not rely on a self-certification or documentary evidence if the reporting financial institution knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable;
- II. in the case of an account other than a U.S. reportable account, in exceptional circumstances where a self-certification cannot be obtained by a reporting financial institution in respect of a new account in time to meet its due diligence and reporting obligations with respect to the reporting period during which the account was opened, must apply the due diligence procedures as applicable for the pre-existing accounts to such new accounts, until such self-certification is obtained and validated;
- (b) a reporting financial institution may presume that an individual beneficiary (other than the owner) of a cash value insurance contract or an annuity contract receiving a death benefit is not a reportable person and may treat such financial account as other than a reportable account unless the reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person but if a reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person, it shall follow the procedures specified in clause (b) of sub-rule (3).
- Explanation.*—For the purposes of this clause, a reporting financial institution shall be deemed to have reason to know that a beneficiary of a cash value insurance contract or an annuity contract is a reportable person if the information collected by the reporting financial institution and associated with the beneficiary contains indicia specified in clause (b) of sub-rule (3).
- (c) the following procedures relating to aggregation of account balance and currency shall apply:—
- (i) for purposes of determining the aggregate balance or value of financial accounts held by an individual, a reporting financial institution shall be required to aggregate all financial accounts maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated;
- (ii) for purposes of determining the aggregate balance or value of financial accounts held by an entity, a reporting financial institution shall be required to take into account all financial accounts which are maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated;
- (iii) for purposes of determining the aggregate balance or value of financial accounts held by a person to determine whether a financial account is a high value account, a reporting financial institution shall also be required, in the case of any financial accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts;
- (iv) for the purposes of rules 238, 239 and this rule, any account maintained in rupees or in any permissible currency (other than the United States Dollar) as designated by the Reserve Bank of India shall be converted to United States Dollar at the end of the reporting period as per the reference rates of the Reserve Bank of India and such converted amount in the United States Dollar shall be used for determining the balance or value of a financial account provided in such rules.
- Explanation 1.*—For the purposes of this clause each holder of a jointly held financial account shall be attributed the entire balance or value of the jointly held financial account for purposes of applying the aggregation requirements.
- (8) In case of a U.S. reportable account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, irrespective of the due diligence procedures specified in sub-rule (4) or sub-rule (6) of this rule for new accounts, the reporting financial institution may, in lieu of the procedures specified in the said sub-rules, apply the following alternative procedures:—
- (a) within one year after the date of entry into force of the FATCA agreement, reporting financial institutions shall,—
- (i) with respect to a new individual account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, request the self-certification specified in sub-rule (4) and confirm the reasonableness of such self-certification consistent with the procedures specified in sub-rule (4); and
- (ii) with respect to a new entity account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, perform the due diligence procedures specified in sub-rule (6) and request for information as necessary to document the account, including any self-certification, required under sub-rule (6);



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- (b) the reporting financial institution shall report on any new account which is identified pursuant to clause (a) of this sub-rule as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, by the date which is the later of,—
- (i) the 31st of May next following the date on which the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable; and
 - (ii) forty-five days after the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable but the information required to be reported with respect to such a new account shall be information which would have been reportable had the new account been identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, as of the date the account was opened;
- (c) by the date that is one year after the date of entry into force of the FATCA agreement. Reporting financial institutions shall close any new account described in clause (a) for which it was unable to collect the required self-certification or other documentation in accordance with the procedure specified in clause (b) but in addition, by such date, the reporting financial institutions shall—
- (i) with respect to such closed accounts which prior to such closure were new individual accounts (without regard to whether such accounts were high value accounts), perform the due diligence procedure specified in clause (c) of sub-rule (3), or
 - (ii) with respect to such closed accounts which prior to such closure were new entity accounts, perform the due diligence procedures specified in sub-rule (5); and
- (d) the reporting financial institution shall report the information specified in rule 239 in respect of any closed account which is identified under clause (c) as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, by the date that is the later of,—
- (i) the 31st of May next following the date on which the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable; and
 - (ii) forty-five days after the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable;

but in respect of all new entity accounts or a clearly identified group of such accounts which are U.S. reportable accounts opened on or after the 1st July, 2014, and before the 1st January, 2015 the reporting financial institution may, in lieu of the procedure specified in clauses (a) to (d), treat such accounts as pre-existing entity accounts and apply the due diligence procedure related to pre-existing entity accounts specified in sub-rule (5) without regard to the account balance or value threshold specified in clause (a) of sub-rule (5).

- (9) For the purposes of rules 238, 239 and this rule, exchange of any information in respect of any transaction in relevant crypto-assets is only for the limited purposes of administration of taxes by the relevant jurisdiction.





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Definitions for purposes of rules 242, 243 and 244.

241. For the purposes of rules 242, 243 and 244,—

- (1) "Anti Money Laundering or Know Your Customer Procedures" means the customer due diligence procedures of a reporting crypto-asset service provider as provided under the Prevention of Money-Laundering Act, 2002 (15 of 2003);
- (2) "branch" means a unit, business or office of a reporting crypto-asset service provider that is treated as a branch under the regulatory regime of a country or territory, or that is otherwise regulated under the laws of such country or territory as separate from other offices, units, or branches of the reporting crypto-asset service provider;
- (3) for the purposes of clause (2), all units, businesses, or offices of a reporting crypto-asset service provider in a single country or territory shall be treated as a single branch;
- (4) "entity" means a legal person or a legal arrangement, such as a company or partnership firm or trust or foundation;
- (5) "excluded person" means—
 - (a) an entity, the stock of which is regularly traded on one or more established securities markets; or
 - (b) any entity that is a related entity of an entity described in sub-clause (a); or
 - (c) a Governmental entity; or
 - (d) an international organisation; or
 - (e) a Central Bank; or
 - (f) a financial institution other than an investment entity described in clause (6)(d)(ii);
- (6) for the purposes of clause (5),—
 - (a) "financial institution" means a custodial institution or a depository institution or an investment entity or a specified insurance company;
 - (b) "custodial institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others and where its gross income attributable to the holding of financial assets and related financial services equals or exceeds 20% of the gross income of the entity during the shorter of—
 - (i) the three-year period that ends on the 31st December (or the final day of a non-calendar year accounting period), prior to the year in which the determination is being made; or
 - (ii) the period during which the entity has been in existence;
 - (c) "depository institution" means any entity that—
 - (i) accepts deposits in the ordinary course of a banking or similar business; or
 - (ii) holds specified electronic money products or Central Bank Digital Currencies for the benefit of customers;
 - (d) "investment entity" means any entity [other than an active entity on account of meeting any of the criteria mentioned in items (ii) to (v) of clause (16)(1)]—
 - (i) that primarily conducts as a business, any one or more of the following activities or operations for or on behalf of a customer:—
 - (A) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.), foreign exchange, exchange, interest rate and index instruments, transferable securities, or commodity futures trading; or
 - (B) individual and collective portfolio management; or
 - (C) otherwise investing, administering, or managing financial assets, money, or relevant crypto-assets on behalf of other persons; or
 - (ii) the gross income of which is primarily attributable to investing or reinvesting or trading in financial assets or relevant crypto-assets, if the entity is managed by another entity, that is, a depository institution or a custodial institution or a specified insurance company or an investment entity described in item (i);
 - (e) (i) for the purposes of sub-clause (d), an entity is treated as primarily conducting as a business, any one or more of the activities described in item (i) of the said sub-clause, or gross income of an entity is treated as primarily attributable to investing or reinvesting or trading in financial assets or relevant crypto-assets in item (ii) of the said sub-clause, if the gross income of the entity attributable to the relevant activities equals or exceeds 50% of the gross income of the entity during the shorter of—
 - (A) the three-year period ending on the 31st December (or the final day of a non-calendar year accounting period) of the year preceding the year in which the determination is made; or
 - (B) the period during which the entity has been in existence;
 - (ii) for the purposes of sub-clause (d)(i)(C), the term "otherwise investing, administering, or managing financial assets, money, or relevant crypto-assets on behalf of other persons", does not include the provision of services for effecting exchange transactions for or on behalf of customers;
 - (iii) the provisions of sub-clause (d) shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations, as updated in June, 2019 pertaining to virtual asset service providers and as further updated from time to time;
 - (f) "specified insurance company" means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a cash value insurance contract or an annuity contract;
 - (g) "governmental entity" means the government of a country or territory or any political sub-division of a country or territory (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a country or territory or of any one or more of the foregoing including the integral parts, controlled entities and political sub-divisions of such country or territory;
 - (h) for the purposes of sub-clause (g),—
 - (i) "integral part" of a country or territory means any person or organisation or agency or bureau or fund or instrumentality or other body, however designated, that constitutes a governing authority of a country or territory, where the net earnings of the governing authority shall be credited to its own account or to other accounts of the country or territory, with no portion enuring to the benefit of any private person, but does not include any individual who is a sovereign or official or administrator acting in a private or personal capacity;
 - (ii) "controlled entity" means an entity that is separate in form from the country or territory or that otherwise constitutes a separate juridical entity, provided that—
 - (A) the entity is wholly owned and controlled by one or more governmental entities directly or through one or more controlled entities;
 - (B) the entity's net earnings are credited to its own account or to the accounts of one or more governmental entities, with no portion of its income enuring to the benefit of any private person; and
 - (C) the entity's assets vest in one or more governmental entities upon dissolution;